

I. Formal Matters and Objections

The Examiner, in his first Office Action, mailed May 9, 2002, rejected Claims 1, 9 and 16 under 35 U.S.C. §112 as indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention based on the use of the word "positive" in Claims 1, 9 and 16, which "may" be a relative term in the Examiner's opinion. The claims were amended to accommodate the Examiner's perception. Based on this amendment made to accommodate the Examiner's opinion, the Examiner now asserts that the amendment necessitated new grounds for rejection and made the instant action final. The Applicant disagrees and objects to the final rejection. More specifically, the Applicant objects to the probability of having to pay additional fees to further the prosecution of the present application .

The Applicant has now amended the claims and restored the original claim language, which is clearly not indefinite in the opinion of Applicant. The meaning of the word "positive" is clear as can be seen from the context in which it is used. When examined in context, the word can mean only one thing. If a loan applicant is personally qualified for a consolidation loan, the applicant's personal qualification is positive. If the loans to be consolidated qualify for consolidation, then the loan qualification is positive. (Application, page 12, lines 16-22; page 13, lines 1-6). What other meaning is possible? If the loan applicant is not personally qualified for a consolidation loan, then the personal qualification is not positive. By the same token, if the loan does not qualify for a loan consolidation, then the loan qualification is not positive. The term can not be relative because the claims and the specification do not call for any degree of measurement with respect to either personal qualification or loan qualification. There are two choices with respect to such qualifications: positive and not positive. No other choices are available. Based on the

foregoing, the Applicant respectfully requests the Examiner to restore the language to the claims as originally filed and withdraw the §112 rejection for indefiniteness.

II. Rejection of Claims 1-22 under 35 U.S.C. §103(a)

The Examiner rejected Claims 1-22 under 35 U.S.C. §103(a) as being unpatentable over Tengal, *et al.*, U.S. Patent No. 5,940,812 (Tengal), in view of Levine, *et al.*, U.S. Patent No. 6,233,566B1 (Levine), and Mottola, *et al.*, U.S. Patent No. 5,745,885 (Mottola) .

Tengal describes a loan origination system that matches a loan to a potential borrower via a telecommunications network. The system brings together, via the telecommunications network, potential borrowers and lenders. The loan origination system database secures information from the potential borrower as well as credit related information from at least one credit bureau. The loan origination database also stores the loan acceptance criteria and loan attributes from one or more potential lenders. The system compares borrower attributes with the loan acceptance criteria to determine if a loan may be available to the potential borrower. The loan attributes of available loans are analyzed to determine a ranking, from which the borrower chooses a loan provided by a selected lender. A loan application is automatically generated from the borrower attributes and sent to the lender for loan approval. (Abstract).

Tengal is directed to the gathering of information with respect to the issuance of new loans. Tengal does not address gathering information from a loan applicant regarding a plurality of already existing and outstanding student loans made to a loan applicant with the view of qualifying such applicant for a consolidation loan. Tengal also does not describe informing a loan consolidator and loan applicant if the loans and applicant qualify for a loan consolidation. The

Examiner states that figure 6 of Tengal provides for "informing said loan applicant and a lender only if said personal qualification and said loan qualification are positive." (Office Action, page 3). Figure 6 ranks qualified loans but there is no module that notifies a lender. The lender is only notified if the potential borrower initiates the contact. (Col. 9, lines 60-62). In addition, Tengal does not address or deal with any facet of a loan consolidation, much less a consolidation of student loans.

Levine does not overcome Tengal's shortcomings. Levine describes an online centralized financial products exchange system to create a "marketplace" for end-to-end financial products life cycle transactions. Levine specifically provides a centralized exchange system for the trading of loans, using a plurality of servers for receiving and providing loan information and a database server for searching to match potential buyers with sellers. The system also provides for a database for storing information relating to negotiations (i.e., bidding) for the sale of loans and for storing pre-set rules for pre-registered buyers and sellers as well as a database and server for storing risk/return information for analysis. (Abstract). Levine addresses transactions by lenders and investors who view loans as a financial commodity to be monetized, traded and sold as any other commodity. Levine does not address and is not concerned with borrowers, much less borrowers seeking to consolidate loans. The system described in Levine is useful to purchasers and sellers of all types of loans, including banks, credit unions, mortgage brokers, investors, and so on. Levine is so far afield from Tengal that it is unreasonable to expect one of ordinary skill in the pertinent art to even consider Levine together with Tengal. The portions of Levine relied on by the Examiner are descriptions of various kinds of loans generally available as an investment commodity for interested purchasers and sellers of loans. There is no suggestion or motivation in Levine to combine loans made to a borrower into a single consolidated loan. Levine does not deal with or suggest any

contact in any fashion with borrowers or potential borrowers. There is no suggestion or motivation, in Tengal, Levine, or in the knowledge generally available to one of ordinary skill in the pertinent art, to modify Tengal and Levine or to combine any of the teachings therein to arrive at the present invention.

Tengel, individually or in combination with Levine, thus fails to teach or suggest the invention recited in independent Claims 1, 9 and 16 and their dependent claims, when considered as a whole. Claims 1-22 are therefore not obvious in view of Tengal and Levine.

The system described in Mottola also does not overcome the shortcomings in Tengal. In fact, Mottola disparages student loans and uses their perceived shortcomings as justification for its alternative higher education funding plan. Mottola this teaches away from using student loans to finance a loan applicant's higher education. (Col. 1, lines 15-67; Col. 2, lines 1-13). Mottola is directed solely to a "method and apparatus for implementing and administering a plan of investments for financing higher education". (Col. 1, lines 17-18). Mottola does not include loans in the plan of investment nor does Mottola describe or suggest the consolidation of outstanding student loans.

Tengel, individually or in combination with Mottola, thus fails to teach or suggest the invention recited in independent Claims 1, 9 and 16 and their dependent claims, when considered as a whole. Claims 1-22 are therefore not obvious in view of Tengal and Mottola.

In view of the foregoing remarks, the cited references do not support the Examiner's rejection of Claims 1-22 under 35 U.S.C. §103(a). The Applicant therefore respectfully requests the Examiner to withdraw the rejection.

IV. Conclusion

In view of the foregoing amendment and remarks, the Applicant now sees all of the claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-22.

The Applicant requests the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application.

Respectfully submitted,

HITT GAINES & BOISBRUN, P.C.

A handwritten signature in black ink, appearing to read 'DHitt', is written over the printed name.

David H. Hitt

Registration No. 33,182

Dated: JANUARY 6, 2003

P.O. Box 832570
Richardson, Texas 75083
(972) 480-8800



APPLICATION NUMBER--09/603,510

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

(1) Please amend Claim 1 as follows:

-- 1. (Twice Amended) A student loan consolidation qualification system, comprising:

an input module, associated with an Internet site, that presents at least one page to a loan applicant to assist said loan applicant in providing personal and student loan information pertaining to a plurality of student loans made to said loan applicant; and

a qualification module, associated with said input module, that assesses said personal information to determine a personal qualification of said loan applicant and assesses said student loan information pertaining to said plurality of student loans to determine a loan qualification of said loan applicant, said qualification module qualifying said loan applicant and informing said loan applicant and a loan consolidator only if said personal qualification and said loan qualification [qualify said loan applicant for a loan consolidation] are positive. --

(2) Please amend Claim 9 as follows:

-- 9. (Twice Amended) A method of qualifying a student for student loan consolidation, comprising:

presenting, at an Internet site, at least one page to a loan applicant to assist said loan applicant in providing personal and student loan information pertaining to a plurality of student loans made to said loan applicant;

RECEIVED
JAN 15 2003
GROUP 3600

assessing said personal information to determine a personal qualification of said loan applicant;

assessing said student loan information pertaining to said plurality of student loans to determine a loan qualification of said loan applicant;

qualifying said loan applicant only if said personal qualification and said loan qualification [qualify said loan applicant for a loan consolidation] are positive; and

informing said loan applicant and a loan consolidator if said personal qualification and said loan qualification [qualify said loan applicant for a loan consolidation] are positive. --

(3) Please amend Claim 16 as follows:

-- 16. (Twice Amended) A student loan consolidation qualification Internet site, comprising:

an input module, associated with said Internet site, that presents at least one page to a loan applicant to assist said loan applicant in providing personal and student loan information pertaining to a plurality of student loans made to said loan applicant; and

a qualification module, associated with said input module, that assesses said personal information to determine a personal qualification of said loan applicant and assesses said student loan information pertaining to said plurality of student loans to determine a loan qualification of said loan applicant, said qualification module qualifying said loan applicant and informing said loan applicant and a loan consolidator via a page on said site only if said personal qualification and said loan qualification [qualify said loan applicant for a loan consolidation] are positive.